

DATE: October 31, 2007

In Re:

SSN: -----

Applicant for Security Clearance

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) ISCR Case No. 07-05946
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**DECISION OF ADMINISTRATIVE JUDGE
JOHN GRATTAN METZ, JR**

APPEARANCES

FOR GOVERNMENT

Ray T. Blank, Jr., Department Counsel

FOR APPLICANT

Pro Se

SYNOPSIS

Applicant's financial irresponsibility and falsification of her clearance application render her an unsuitable candidate for a security clearance. Clearance denied.

STATEMENT OF THE CASE

____ Applicant challenges the 27 July 2007 Defense Office of Hearings and Appeals (DOHA) Statement of Reasons (SOR) recommending denial or revocation of her clearance because of financial considerations and personal conduct.¹ Applicant answered the SOR 23 August 2007, and

¹Required by Executive Order 10865 and Department of Defense Directive 5220.6, as amended and modified—most recently in August 2006 (Directive).

requested a hearing. The case was assigned to me 12 September 2007, and I convened a hearing 11 October 2007. DOHA received the transcript (Tr.) 24 October 2007.

FINDINGS OF FACT

Applicant denied the financial allegations of the SOR, except for SOR 1.a., 1.b., 1.d., 1.g., 1.h., 1.r., and 1.q. Accordingly, I incorporate her admissions as findings of fact. She denied falsifying her clearance application. She is a 42-year-old logistician aide for a defense contractor since July 1995. She has not previously held a clearance.

When Applicant submitted her clearance application in December 2006 (G.E. 1), she answered “no” to two questions (questions 28 a. and b.) asking if she had been 180 days delinquent on any accounts within the last seven years, or was currently 90 days delinquent on any account. In fact, she was more than 90 days delinquent on 18 accounts totaling over \$27,000. Applicant has offered no credible explanation for her failure to disclose her financial difficulties. Indeed, she acknowledged (Tr 60) that she knew at the time that she should have answered “yes.” Applicant knew that she had been receiving collection letters from the creditors, and had long since stopped paying most of her creditors.

Applicant has a history of financial problems dating back to 1999, the point at which she lost control of her finances. She cites no precipitating event for her financial difficulties (Tr 58), except for being a single mother of three, living beyond her means (Tr. 34).

Applicant acknowledges that she incurred each of the debts alleged in the SOR, and at some point stopped payment on each account (Tr. 38-40). Of the 11 delinquent accounts she denied, only two were paid: SOR 1.n. was largely paid by garnishment of her wages, and 1.o. was paid when the IRS seized her income tax refund to pay an outstanding education loan. Applicant denies the remaining nine because she is working with a credit repair organization to have them removed from her credit report due to them being more than seven years old. She states an intent to pay “every single debt that I need to satisfy” (Tr. 28), and to that end has taken a part-time job and a roommate. She intends to pay her debts in the next 7-8 months. However, she had not yet made any payment arrangement with her creditors, as she was focusing on getting aged debts off her credit report. However, this seems more aimed a cleaning up her credit report, as she is trying to buy a house (Tr. 43-44).

POLICIES AND BURDEN OF PROOF

The Directive, Enclosure 2 lists adjudicative guidelines to be considered in evaluating an Applicant’s suitability for access to classified information. Administrative Judges must assess both disqualifying and mitigating conditions under each adjudicative issue fairly raised by the facts and circumstances presented. Each decision must also reflect a fair and impartial common sense consideration of the factors listed in Section 6.3. of the Directive. The presence or absence of a disqualifying or mitigating condition is not determinative for or against Applicant. However, specific adjudicative guidelines should be followed whenever a case can be measured against them, as they represent policy guidance governing the grant or denial of access to classified information.

Considering the SOR allegations and the evidence as a whole, the relevant, applicable, adjudicative guidelines are Guideline F (Financial Considerations) and Guideline E (Personal Conduct).

Security clearance decisions resolve whether it is clearly consistent with the national interest to grant or continue an Applicant's security clearance. The government must prove, by something less than a preponderance of the evidence, controverted facts alleged in the SOR. If it does so, it establishes a *prima facie* case against access to classified information. Applicant must then refute, extenuate, or mitigate the government's case. Because no one has a right to a security clearance, the Applicant bears a heavy burden of persuasion.

Persons with access to classified information enter into a fiduciary relationship with the government based on trust and confidence. Therefore, the government has a compelling interest in ensuring each Applicant possesses the requisite judgement, reliability, and trustworthiness of those who must protect national interests as their own. The "clearly consistent with the national interest" standard compels resolution of any reasonable doubt about an Applicant's suitability for access in favor of the government.²

CONCLUSIONS

The Government established a case for disqualification under Guideline F, and Applicant did not mitigate the security concerns. Government records reflect over \$27,000 of delinquent debt acquired since 1999, because she could not or would not live within her means.³

Applicant meets none of the mitigating factors for financial considerations. Her financial difficulties are both recent and multiple;⁴ indeed they appear to be ongoing. Applicant has not established that her debts were due to circumstances beyond her control, or that she has acted responsibly in addressing her debts.⁵ There is no evidence that she has sought credit counseling or otherwise brought the problem under control.⁶ The credit repair firm does not appear to be involved in counseling beyond the steps to improve her credit score so she can buy a house. Further, removing seven-year-old debts from her credit report (a federal requirement) does not necessarily end her legal responsibility for the debts, which is governed by state statutes-of-limitation. Applicant has taken

²See, *Department of the Navy v. Egan*, 484 U.S. 518 (1988).

³¶19.(a) inability or unwillingness to satisfy debts; (b) indebtedness caused by frivolous or irresponsible spending and the absence of any evidence of willingness or intent to pay the debt or establish a realistic plan to pay the debt; (c) a history of not meeting financial obligations;

⁴¶20 (a) the behavior happened so long ago, was so infrequent, or occurred under such circumstances that it is unlikely to recur . . .

⁵¶20.(b) the conditions that resulted in the financial problem were largely beyond the person's control . . . and the individual acted responsibly under the circumstances;

⁶¶20.(c) the person has received or is receiving counseling for the problem and there are clear indications that the problem is being resolved or is under control;

no verifiable steps to address her debts.⁷ There is nothing in the record to suggest that Applicant will be able to remain financially stable in the future. I conclude Guideline F against Applicant.

The government established a case for disqualification under Guideline E, and Applicant did not mitigate the security concerns. She deliberately concealed the nature and extent of her financial problems.⁸ Further, none of the Guideline E mitigating conditions apply. There is no evidence demonstrating that she corrected the falsification before being asked about it.⁹ There is no evidence to suggest that Applicant receive bad advice about what she was required to disclose on her clearance application.¹⁰ I conclude Guideline E against Applicant.

FORMAL FINDINGS

Paragraph 1. Guideline F: AGAINST APPLICANT

Subparagraph a:	Against Applicant
Subparagraph b:	Against Applicant
Subparagraph c:	Against Applicant
Subparagraph d:	Against Applicant
Subparagraph e:	Against Applicant
Subparagraph f:	Against Applicant
Subparagraph g:	Against Applicant
Subparagraph h:	Against Applicant
Subparagraph i:	Against Applicant
Subparagraph j:	Against Applicant
Subparagraph k:	Against Applicant
Subparagraph l:	Against Applicant
Subparagraph m:	Against Applicant
Subparagraph n:	Against Applicant
Subparagraph o:	Against Applicant
Subparagraph p:	Against Applicant
Subparagraph q:	Against Applicant
Subparagraph r:	Against Applicant

Paragraph 2. Guideline E: AGAINST APPLICANT

⁷¶20.(d) the individual initiated a good-faith effort to repay overdue creditors or otherwise resolve debts.

⁸¶16.(a) The deliberate omission, concealment, or falsification of relevant and material facts from any personnel security questionnaire, personal history statement, or similar form used to conduct investigations, . . . [or] determine security clearance eligibility or trustworthiness. . . ;

⁹¶17.(a) The individual made prompt, good-faith efforts to correct the omission, concealment, or falsification before being confronted with the facts;

¹⁰¶17.(b) the refusal or failure to cooperate, omission or concealment was caused or significantly contributed to by improper or inadequate advice of authorized personnel or legal counsel advising or instructing the individual specifically concerning the security clearance process . . . [later] the individual cooperated fully and truthfully.

Subparagraph a: Against Applicant

DECISION

In light of all the circumstances presented by the record in this case, it is not clearly consistent with the national interest to grant or continue a security clearance for Applicant. Clearance denied.

**John G. Metz, Jr.
Administrative Judge**